



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7**

11201 Renner Boulevard  
Lenexa, Kansas 66219

**VIA EMAIL**

*stewart@hassancables.com*

Stewart D. Cables  
Hassan + Cables, LLC  
1035 Pearl Street, Suite 200  
Boulder, Colorado 80302

Re: In the Matter of D & K Repair, LLC  
Rock Valley, Iowa  
Invitation to Participate in Pre-Filing Negotiations

Dear Mr. Cables:

This letter concerns the compliance of D & K Repair, LLC (D&K) with the requirements of the Clean Air Act, 42 U.S.C. § 7401 *et seq.* (CAA) for its facility at 3382 Elmwood Avenue, Rock Valley, Iowa, 51247 (Facility).

As you are aware, on February 24, 2020, the U.S. Environmental Protection Agency, Region 7 (EPA), sent a request for information to D&K pursuant to Section 208(a) of the CAA, 42 U.S.C. § 7542(a). The purpose of the request for information was to determine the Facility's compliance with the CAA. On May 6, 2020, D&K responded to EPA's request. Based on D&K's response and other relevant information, the EPA has determined that D&K violated the CAA and the EPA's implementing regulations.

The violations include, but are not limited to, the following:

- CAA § 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B) – sale of, or offering to sell, or installation of any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any emissions control device or element of design installed on or in a motor vehicle or motor vehicle engine

The EPA's primary concern is D&K's return to full compliance as expeditiously as possible. The EPA has continuing concerns whether some requirements are being met and would like to discuss them with you. The EPA also believes that these violations are significant enough to warrant the assessment of a civil penalty. Section 205(a) of the CAA, 42 U.S.C. § 7524(a), authorizes civil penalties for violations of CAA § 203 requirements. To be fair and consistent in its assessment of penalties, the EPA uses the Clean Air Act Mobile Source Civil Penalty Policy, January 16, 2009 to calculate penalties. A link to this document is included in the Additional Sources of Information enclosure.



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By this letter, the EPA is offering D&K the opportunity to negotiate a fair resolution of this matter before any complaint is filed. A settlement of this matter through your return to full compliance and payment of an appropriate civil penalty would be memorialized in a Consent Agreement and Final Order to be signed by an authorized representative of D&K and the EPA. We recognize there may be information relevant to this matter we are not aware of, and the EPA will fully and fairly consider any information D&K provides that is relevant to the violations. If D&K believes it does not have the financial ability to pay the proposed penalty and wants the EPA to consider its financial condition, D&K should notify the EPA during the settlement discussions so we can further discuss the circumstances and determine the appropriate financial documentation to substantiate this claim.

If D&K is interested in participating in pre-filing negotiations, please contact Cathie Chiccine in the Office of Regional Counsel within 20 **calendar days** of receipt of this letter at (913) 551-7917 or *chiccine.catherine@epa.gov*. The EPA generally provides a period of 90 days to reach settlement before considering more formal enforcement options.

Addressing significant noncompliance with environmental laws is important to protect public health and the environment. At the same time, the EPA recognizes that the COVID-19 pandemic may be impacting D&K's operations and causing hardships to its business. We are open to discussing and considering as part of settlement discussions any circumstances due to the COVID-19 pandemic that D&K may be facing.

Your attention to this matter is greatly appreciated. If you have any questions, please do not hesitate to contact Ms. Chiccine at (913) 551-7917, or Lisa Hanlon, Compliance Officer, at (913) 551-7599.

Sincerely,

David Cozad  
Director, Enforcement and Compliance Assurance Division

Enc.: Additional Sources of Information

cc: Brian Hutchins, Iowa Dept. of Natural Resources

### **Additional Sources of Information**

- Information on CAA Enforcement Policy Guidance and Publications:  
*<https://www.epa.gov/enforcement/air-enforcement-policy-guidance-and-publications>*
- Information on CAA Mobile Source Penalty Policy:  
*[https://www.epa.gov/sites/production/files/documents/vehicleengine-penalty-policy\\_0.pdf](https://www.epa.gov/sites/production/files/documents/vehicleengine-penalty-policy_0.pdf)*
- Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22:  
*[http://www.epa.gov/sites/production/files/2013-10/documents/final-crop-fr\\_1.pdf](http://www.epa.gov/sites/production/files/2013-10/documents/final-crop-fr_1.pdf)*
- Information on Small Businesses and Enforcement:  
*<https://www.epa.gov/compliance/small-business-resources-information-sheet>*